

REGULAR MEETING

July 12, 2004

The Regular Meeting of the Annapolis City Council was held on July 12, 2004 in the Council Chamber. Mayor Moyer called the meeting to order at 7:30 p.m.

Present on Roll Call: Mayor Moyer, Aldermen Hammond, Tolliver, Kelley, Fox, Cohen, Alderwomen Hoyle, Carter

Alderman Cordle was absent.

Staff Present: City Attorney Spencer, Fire Department Chief Lonergan, Human Resources Director Milburn, Police Chief Johnson, Transportation Director Matland

AWARDS AND PRESENTATIONS

- Mayor Moyer, Human Resources Director Milburn and Transportation Director Matland acknowledged the following employees:

Chief Sherlock, Fire Department 38 Years of Service
David Alexander, Transportation 10 Years of Service
- Mayor Moyer received a \$1,500 check for the installation of a pedestrian foot bridge at Annapolis Waterworks Park from Mark Rose representing the Southern Maryland Resource & Development Board, and Jeff Opel representing the Anne Arundel Soil Conservation District.
- Mayor Moyer presented a Glittering Gems of Annapolis Award to Denis Conti.
- Alderman Hammond moved to approve the Journal of Proceedings for June 14, 2004 and June 21, 2004. Seconded. CARRIED on voice vote.
- Without objection, the agenda was amended to add legislative action on O-8-04.

PETITIONS, REPORTS AND COMMUNICATIONS

Spoke in favor of O-15-04

1. Maria Sasso, 306 Taylor Avenue, Annapolis, Maryland 21401
 2. Susan Deegan, representing Loews Annapolis Hotel, 56 St. Andrews Road, Severna Park, Maryland 21146
 3. Tim Corboy, 16 Spa View Circle, Annapolis, Maryland 21401
 4. Pablo Lajarranga, 1724 Waldorf Court, Crofton, Maryland 21114
 5. Francisco R. Witt, 861 Turf Valley Drive, Pasadena, Maryland 21122
 6. Ives Martinez, 422 Porpoise Lane, Riva, Maryland 21140, representing ALMAA, Inc., P.O. Box 1944, Annapolis, Maryland 21404
 7. Brian Miller, 114 Market Street, Annapolis, Maryland 21401, representing the Ward One Residents Association spoke in favor of O-15-04
 8. Michael Calo, 124 Prince George Street, #7, Annapolis, Maryland 21401
- Leonard Blackshear, 2705 Riva Road, Annapolis, Maryland 21401, spoke in favor of R-14-04.
 - Jim Philpott, Director of Facilities, 35 Silopanna Road, Annapolis, Maryland 21404, spoke in favor of O-8-04.

LEGISLATIVE ACTION

ORDINANCES

O-5-04 For the purpose of establishing that certain fines shall be set by

resolution of the City Council; deleting certain out-dated provisions that apply to fines that are no longer charged; deleting references in the City Code to certain fines that will be included in a fine schedule resolution; establishing certain new fines; providing for the annual adoption of a schedule of fines set by resolution; and all matters relating to said fines.

◆Alderman Hammond moved to adopt O-5-04 on second reading. Seconded.

The Environmental Matters Committee, Economic Matters Committee and Housing and Human Welfare Committee reported favorably with amendments on O-5-04.

◆Alderman Tolliver moved the Environmental Matters, Economic Matters and Housing and Human Welfare Committees amendments to O-5-04 as follows:

Amendment #1 [Amendment #1 corrects a title error. The original title is inconsistent with the ordinance.]

On page 1, in line 14, strike “are included in one” and substitute “shall be adopted by”; and in line 14 after “Council” insert “i” and strike “by”; at the end of line 15, strike “by”; in line 16 after “fines,” strike “by”.

Amendment #2 [Amendment #2 corrects references to sections reenacted with amendments.]

On page 2, strike line 25 and substitute “Section 11.44.010.C” and
On page 3, strike line 14

Amendment #3 [Amendment #3 removes redundant language.]

On page 5, in line 17, strike “or imprisonment”

Amendment #4 [Amendment #4 removes unnecessary language; length of imprisonment is provided in companion resolution]

On page 7, line 4 and continuing on line 5, strike “not to exceed ninety days”

Amendment #5 [Inserts language stricken in error.]

On page 13, in line 18, after “by a” remove the strikeout from “fine”

Amendment #6 [Amendment #6 removes a specific fine, which is provided in the companion resolution.]

On page 23, in line 37, strike “of \$100”

Amendment #7 [Amendment #7 removes a specific fine, which is provided in the companion resolution.]

On page 28, in line 6, strike “of five hundred dollars”

Amendment #8 [Amendment #8 changes the effective date of the ordinance to correspond to that in the resolution so that there is no gap in time in providing for fines and penalties for various violations.]

On page 32 in lines 25 and 26, strike “from the date of its passage” and substitute “on July 1, 2004, concurrent with the effective date of R-3-04”

Seconded. CARRIED on voice vote.

◆Alderman Cohen moved to amend O-5-04 as follows:

Amendment #9 [This amendment is intended to be adopted in addition to Amendment #6. Amendment 6 correctly deletes the dollar amount of the fine. This amendment adds language consistent with language in other sections that references where the amount of the fine may be found, the Fines Schedule.]

On page 23, in line 37, after "to a fine" insert "as established by resolution of the City Council"

Amendment #10 [This amendment is intended to be adopted in addition to Amendment #7. In addition to the language deleted by Amendment 7, this amendment further deletes superfluous language. Adoption of the Fines Resolution will address the fines for both initial and repeat violations.]

On page 28, in line 6, strike "for any single violation and a fine"

Seconded. CARRIED on voice vote.

◆Alderman Cohen moved to amend O-5-04 as follows:

Amendment 1 [It appears that several contractors knowingly violate the code at different jobs, but because the second violation is at a different address the city can only enforce it is as an initial offense. Thus, these contractors knowingly and repeatedly violate the Code and only receive a relatively modest fine that amounts to little more than a slap on the wrist. They are able to absorb such a low amount as a cost of doing business. Although homeowners may be unaware of the law, there is no excuse for a contractor, who has already been cited by the City for a prior violation, for not knowing and understanding the law.]

On page 24, in line 11, after the stricken words, and

On page 25, in line 29 after "any further inspections." and

On page 25, in line 37, after the stricken words, and

On page 27, in line 31, after the stricken words, and

On page 27, in line 39, after the stricken words, and

On page 32, in line 2, after the stricken words, insert the following: "If a person or entity is found to have violated this section at one or more discrete sites within the City two or more times in any two-year period, such violation shall constitute a repeat violation."

Seconded. CARRIED on voice vote.

◆Alderman Hammond moved to amend O-5-04 as follows:

Amendment #1 [This amendment adds two additional sections with fines that also should be included in the Fines resolution along with all other fines.]

On page 18, in line 22, insert the following:

Section 12.32.190 Violation - Penalty.

A. The parking of any vehicle or the use of any parking permit in a manner contrary to the residential parking provisions established in this chapter is prohibited, and the same is declared to be unlawful and a misdemeanor. Any person violating the same shall, upon conviction thereof by a court of competent jurisdiction, be fined twenty-five dollars for each violation and, in default of any fine

~~so imposed, shall be imprisoned for a period not to exceed three days for each violation. Each day the violation continues constitutes a separate violation~~ subject to a fine as established by resolution of the City Council.

B. The failure of the violator to pay the fine within fifteen days of the date of issuance of the parking citation shall result in an additional cost of ~~ten dollars~~ as established by resolution of the City Council. The failure of the violator to pay the fine within twenty-three days of the date of issuance of the parking citation shall result in an additional cost of ~~fifteen dollars~~ as established by resolution of the City Council and shall result in notification to the ~~motor vehicle administration~~ Maryland Motor Vehicle Administration and in administrative fees imposed by the ~~motor vehicle administration~~ Maryland Motor Vehicle Administration. Failure to satisfy the required fines at this time shall result in a refusal of registration and transfer of the registered owner's motor vehicle.

Section 12.32.200 Violation--Unlawful usage or display--Penalty.

Notwithstanding the provisions of Section 12.32.190, the use or display of a permit obtained or maintained contrary to the residential parking provisions established in this chapter is unlawful. Upon conviction, the owner and operator of a vehicle in which the permit is used or displayed shall be ~~fined not more than two hundred fifty dollars for each violation or imprisoned for a period not to exceed three days, or both fined and imprisoned~~ subject to a fine or by imprisonment, or by both as established by resolution of the City Council.

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Hammond moved to adopt O-5-04 amended on third reading. Seconded. CARRIED on voice vote.

R-3-04 For the purpose of establishing a municipal infraction fine schedule pursuant to the adoption of the current expense budget for the City of Annapolis for the fiscal year 2004-2005, beginning July 1, 2004 and ending June 30, 2005; and all matters relating to said fee schedule.

- Alderman Hammond moved to adopt R-3-04 on second reading. Seconded.
- Alderman Hammond moved the Environmental Matters, Economic Matters and Housing and Human Welfare Committees amendments to R-3-04 as follows:

Amendment #1 [Amendment 1 restores language in current law concerning penalties for repeat offenses.]

On page 3 after line 20, insert a period after "day" and add "In addition, the city council may revoke or suspend a permit issued pursuant to this chapter upon a second or subsequent conviction under this section in any twelve month period."

Amendment #2 [Amendment 2 substitutes language from current law to clarify the intent of daily fines. This amendment was also proposed by Rules.]

On page 3, in column 4, strike lines 19 and 20 and line 22, and substitute "Each separate day of violation that remains uncorrected is a separate violation subject to an additional citation and fine of \$100."

Amendment #3 [Amendment #3 restores language in current law concerning

penalties for repeat offenses.]

On page 3, in column 4, in line 28, insert a period after “costs” and add “in addition, the city council may revoke or suspend the license of any person licenced to engage in the towing business who violates this chapter or any rules or regulations promulgated pursuant to this chapter or who fails to comply with any of the provisions and terms of any towing agreement executed pursuant to this chapter.”

Amendment #4 [Amendment #4 raises the fines for obstructing a driveway and certain parking violations to \$100.]

On page 7, in columns 3 and 4, lines 4 and 6, strike “\$25” and in each instance, substitute “\$100”

Amendment #5 [Amendment #5 raises the fine for leaving a vehicle parked more than 48 hours to \$100]

On page 9, in columns 3 and 4, strike line 1 and substitute “\$100”

Amendment #6 [Amendment #6 restores the fine for repeat or continuing violations of the sign code to \$200, which is the current level]

On page 15, in column 4, in line 9, strike “\$100” and substitute “\$200”

Amendment #7 [Raises the fine for parking within 20 feet of a crosswalk from the current fine of \$25 to \$100]

On page 7, in columns 3 and 4, lines 10, strike “\$50” and in each instance, substitute “\$100”

Seconded. CARRIED on voice vote.

- Alderman Cohen moved to amend R-3-04 as follows:

[The purpose of these amendments is to increase the amount of fines for repeat offenses of development-related violations such as grading, building or tree removal without a permit. Increasing these particular fines will enable them to better fulfill their purpose as a deterrent to these types of behavior. These increases will parallel Anne Arundel County’s finding that fines in the \$500 range did not deter persons from undertaking prohibited development. Thus, as reported recently in The Baltimore Sun, Anne Arundel County has increased its fines for similar violations tenfold to \$5,000, and in some cases \$10,000. State law limits the fines for municipal infractions to \$1,000. Thus, Annapolis may not fine violators more than \$1,000 per offense.

The maximum permitted by State law may strike some as severe, but it is appropriate considering that the purpose of the fine is to be high enough to act as a deterrent. Further, these increases will only apply to repeat or continuous violations, not to the initial offenses.]

On page 12, in line 16, fourth column only, strike “\$100” and substitute “\$1,000”

On page 13, in line 1, fourth column only, strike “\$500” and substitute “\$1,000”

On page 13, in line 3, fourth column only, strike “\$200” and substitute “\$1,000”

On page 13, in line 20, fourth column only, strike “\$200” and substitute “\$1,000”

On page13, in line 22, fourth column only, strike "\$200" and substitute "\$1,000"

On page15, in line 13, fourth column only, strike "\$500" and substitute "\$1,000"

Seconded. CARRIED on voice vote.

- Alderman Hammond moved to amend R-3-04 as follows:

Amendment #1 [This amendment adds fines for two additional sections that were not, but should have been, included in the Fees resolution as initially submitted.]

On page 10, in line 8, insert the following:

12.32.190. A.	Violation -- Penalty.	\$25 and, if in default of any fine imposed, shall be imprisoned for a period not to exceed three days for each violation.	\$25 and, if in default of any fine imposed, shall be imprisoned for a period not to exceed three days for each violation.
12.32.190. B.	Violation -- Penalty.	Failure to pay fine within 15 days shall result in additional cost of \$10. Failure to pay within 23 days shall result in additional cost of \$15 and notification to the Maryland Motor Vehicle Administration which may assess administrative fees and refuse to permit the registration or transfer of the registered owner's vehicle.	Failure to pay fine within 15 days shall result in additional cost of \$10. Failure to pay within 23 days shall result in additional cost of \$15 and notification to the Maryland Motor Vehicle Administration which may assess administrative fees and refuse to permit the registration or transfer of the registered owner's vehicle.
12.32.200	Violation -- Unlawful usage or display -- Penalty.	Not to exceed \$200 or imprisonment for three days or both.	Not to exceed \$200 or imprisonment for three days or both.

Seconded. CARRIED on voice vote.

The main motion amended CARRIED on voice vote.

Planning Commission amendments were referred to the Finance Committee

O-15-04 For the purpose of authorizing a lease of the Susan B. Campbell Park located in the harbor and Dock Street areas to ALMAA, Inc., a body corporate, for a certain period of time, subject to certain terms, provisions, and conditions, for the purpose of conducting a Latin Festival; and all matters relating to said lease.

Alderman Fox moved to adopt O-15-04 on second reading. Seconded.

The Economic Matters Committee reported favorably with amendments to O-15-04.

- Alderman Kelley moved the Economic Matters Committee amendments to the Lease Agreement attached to O-15-04 as follows:

Amendment #1 [This amendment would move the ending time of the one day event up two hours to 8 p.m.]

On page 1 of Lease to O-15-04, in line 23, strike “10 p.m.” and substitute “8 p.m.”

Seconded. CARRIED on voice vote.

Amendment #2 [This amendment would preclude the sale of items other than beverages and food which are addressed elsewhere in the lease.]

On page 3 of Lease to O-15-04, in line 25 through 28, strike “Exhibitors who sell merchandise at the Festival shall obtain all required non-City licenses and pay all required federal, state and county and City taxes and fees. This Lease shall satisfy any City licensing requirements for such exhibitors.” and substitute “There shall be no vendors.”

Without objection, Amendment #2 was withdrawn.

- Alderman Hoyle moved to amend the Lease Agreement attached to O-15-04 as follows:

Amendment #2 [To permit sale of water and soft drinks. Current terms of the proposed lease will permit the service of food that will be donated by local businesses as part of a Latin American Taste Competition.]

On page 4 of Lease Agreement attached to O-15-04, in line 2, strike “and non-alcoholic beverages” and,

On page 4 of Lease Agreement attached to O-15-04, at the end of line 4, insert “Lessee and exhibitors may sell non-alcoholic beverages to the public.

Seconded. CARRIED on voice vote.

- Alderman Hammond moved to amend the Lease Agreement attached to O-15-04 as follows:

Amendment#1 [To be introduced only if Alderwoman Hoyle’s amendment #1 is adopted. This amendment would move the ending time of the one day event up two hours to 8 p.m.]

[This amendment would preclude the sale of items other than beverages and food which are addressed elsewhere in the lease.]

On page 3 of Lease to O-15-04, in line 25 through 28, strike “Exhibitors who sell merchandise at the Festival shall obtain all required non-City licenses and pay all required federal, state and county and City taxes and fees. This Lease shall satisfy any City licensing requirements for such exhibitors.” and substitute “There shall be no vendors other than permitted under Section 2.6 of this lease. However, exhibitors can offer product information and related business cards.” Seconded.

A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Tolliver, Kelley, Fox, Cohen, Alderwoman Hoyle
NAYS: Mayor Moyer, Alderwoman Carter
CARRIED: 6-2

The main motion as amended CARRIED on voice vote.

- Alderman Hammond moved to adopt O-15-04 amended on third reading. Seconded. CARRIED on voice vote.

O-21-04 For the purpose of clarifying that signs may be posted specifying times when persons are prohibited from being in Truxton Park when there is no City-supported event; and matters generally relating to said park hours.

Alderman Hammond moved to adopt O-21-04 on first reading. Seconded. CARRIED on voice vote.

Referred to Public Safety Committee

O-22-04 For the purpose of requiring that appeals to decisions of the Port Wardens are to be made directly to the Circuit Court of Anne Arundel County rather than first being made to the City Council; to have applicants complete and post signs to reduce potential of incorrect signs; and matters generally relating to said Port Wardens procedures.

Alderman Hammond moved to adopt O-22-04 on first reading. Seconded. CARRIED on voice vote.

Referred to the Environmental Matters Committee

O-8-04 Amended Lease of City Property to Chesapeake Children's Museum--For the purpose of amending the current lease with the Chesapeake Children's Museum, Inc., for the facility located as 25 Silopanna Road to permit overnight stays; and matters generally relating to said lease.

Alderman Fox moved to adopt O-8-04 on second reading. Seconded.

Economic Matters and Finance Committees reported favorably with amendments on O-8-04.

Alderman Fox moved the amendments to the lease from the Economic Matters Committee; the Finance Committee; and, Alderman Cohen's amendments to Exhibits C & D:

Economic Matters Committee Amendment #1 [This amendment would require the Children's Museum to obtain \$200,000 in property insurance due to additional risks resulting from allowing cooking to take place in the facility.]

On page 9, in line 9, after "acceptable to the Lessor." insert "Also, the lessee shall purchase property insurance in the amount of \$200,000.";

Finance Committee Amendment #1 [This amendment would affirm that any appliances installed for cooking would have to meet County and City requirements.]

On page 7, in line 5, after "by adults." insert "Any appliance needed for said cooking must be installed in accordance with Anne Arundel County Health Department regulations and through the City permitting process."; and,

Alderman Cohen's Amendment 1 [Adds language to Exhibit C to assure leasee's compliance with Fire Marshall requirements for overnight stays.]

In Exhibit C, page 2 where item "12." is currently stricken, insert the following:

- “12. Approved single station smoke alarms shall be installed in sleeping areas.
13. The existing fire alarm shall be modified to include horns and strobes for occupant notification as described in NFPA 72.”

Alderman Cohen’s Amendment 2 [Adds the last line in the Exhibit D to clearly specify that overnight stays for Girl Scouts are permitted.]

In Exhibit D, strike the second page and substitute the following page:
EXHIBIT D
Page 2
PROGRAMS THAT MIGHT BE ADDED AT THE WYRE BUILDING/NATURE CONSERVANCY

Program	Purpose	Audience	Group Size	Time Schedule
Nature Walks	To appreciate the natural environment	Families (all ages)	5-20	Twice a month 90 minutes
Creek Clean Ups	To positively impact the environment	Ages 4 & up & family	5-15	Four times/yr/, ½ day
Bird Watching Club	To become acquainted with bird life	Families (all ages)	4-20	Monthly, 2 hours
Landscaping projects	To gain gardening skills, beautify grounds	Scout groups (9 & up)	6-25	Projects scheduled by troop
Art taught in Spanish	To create visual art, while speaking Spanish	Ages 2 - 5 with adult	6-16	Weekly, 1 hour
Art taught in Spanish	To create visual art, while speaking Spanish	Ages 11-14	6-10	Weekly, 90 minutes
Mad Middle Science	To explore physics and chemistry concepts	Ages 11-14	6-10	Weekly, 90 minutes
Safe Bicycling	To enjoy safe bicycle riding	Ages 7 & up & family	6-20	For times/yr., 2 hours
Crafts Classes	To share techniques and socialize	Ages 13 - 18 & 55 & up	8-14	Weekly, 90 minutes
Scout Overnights	To fulfill badge requirements	Junior Girl Scouts, ages 9-11	15 to 45, plus adult chaperon (one per six girls)	7:30pm to 9am (non-school nights)

Seconded. CARRIED on voice vote.

The main motion with amended lease and exhibits CARRIED on voice vote.

Alderman Fox moved to adopt O-8-04 with amended lease and exhibits on third reading. Seconded. CARRIED on voice vote.

RESOLUTIONS

R-12-04 For the purpose of establishing a Council Compensation Commission to make recommendations to the City Council on the pay and compensation for the Mayor and Aldermen to be effective for the four year period beginning December 5, 2005; and matters generally relating to said pay and compensation.

Alderman Hammond moved to adopt R-12-04 on first reading. Seconded. CARRIED on voice vote.

R-13-04 For the purpose of approving the abolishment of the civil service position of Community Services Specialist in the Police Department; and all matters relating to said job description and pay grades.

Alderman Fox moved to receive the Civil Service Recommendations dated 6/4/04. Seconded. CARRIED on voice.

Alderman Hammond moved to adopt R-13-04 on first reading. Seconded. CARRIED on voice vote.

R-14-04 For the purpose of waiving fees for a non-profit organization sponsoring a special event to be held in downtown on Wednesday, September 29, 2004; and all matters relating to said waiver of fees.

Alderman Hammond moved to adopt R-14-04 on first reading. Seconded. CARRIED on voice vote.

BUSINESS AND MISCELLANEOUS

9. Payment of Monthly Bills

Alderwoman Carter moved to pay the monthly bills. Seconded. CARRIED on voice vote.

10. Appointments

Alderman Tolliver moved to approve the Mayor's (re)appointments of the following individuals:

7/8/04 Art in Public Places	Cynthia A. Shinn
7/8/04 Building Board of Appeals	Fred D. Fishback
7/8/04 Civil Service Board	Velma McCullough
7/9/04 Environmental Commission	Gregory C. Barranco
7/8/04 Housing and Community Development	Rusty Porter
7/8/04 Plumbing Inspectors Committee	Richard Owens
7/8/04 Recreation Advisory Board	Donna R. M. Jefferson

Seconded. CARRIED on voice vote.

11. Ratification of Collective Bargaining Agreements:

- a. International Association of Firefighters, Local 1926
- b. Annapolis Clerical & Technical Employees, Local 3162
- c. Annapolis Trades, Maintenance & Labor Force Employees, Local 3406

Alderman Fox moved to ratify the following Collective Bargaining Agreements:

- a. International Association of Firefighters, Local 1926
- b. Annapolis Clerical & Technical Employees, Local 3162
- c. Annapolis Trades, Maintenance & Labor Force Employees, Local 3406

Seconded. CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 9:07 p.m.

Deborah Heinbuch, MMC
City Clerk